PUBLIC CHARGE & EARLY SUPPORT FOR INFANTS AND TODDLERS
EDUCATING PROVIDERS AND FAMILIES ABOUT THE ADMINISTRATION’S PROPOSED PUBLIC CHARGE RULE CHANGES
Department of Children, Youth and Families
“Public Charge” is a term used in immigration law to refer to a person who is likely to become primarily dependent on the government for support.

A public charge assessment is made:

- When a person **applies to enter** the U.S. or
- **Applies to adjust status** to become a Lawful Permanent Resident (LPR), **NOT when applying to become a U.S. citizen**
**WHO DOES THE PUBLIC CHARGE TEST APPLY TO?**

<table>
<thead>
<tr>
<th>Applies to:</th>
<th>DOES NOT apply to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• A person abroad who <strong>applies to enter</strong> the U.S.</td>
<td>• Undocumented individuals</td>
</tr>
<tr>
<td>• An individual who <strong>applies to adjust status</strong> to become a to become a Lawful Permanent Resident (LPR), also known as getting a green card.</td>
<td>• Individuals that are applying to become a U.S. Citizen (applying for naturalization)</td>
</tr>
<tr>
<td></td>
<td>• Children or family members of those applying, unless they themselves are applying for LPR status.</td>
</tr>
<tr>
<td></td>
<td>• Certain humanitarian immigrants, including refugees, asylees, those applying for a green card under the Violence Against Women Act (VAWA), individuals who have or are applying for U or T visas, children seeking Special Immigrant Juvenile Status, as well as some other protected categories are either exempt or can qualify for a waiver of public charge.</td>
</tr>
</tbody>
</table>
Under current policy, only two types of public benefits may be considered:

1. **Cash assistance** for income maintenance
2. **Institutionalization for long-term care** at government expense
THINGS TO KEEP IN MIND

PART C SERVICES
• Not considered under public charge test

TOTALITY OF CIRCUMSTANCES
• Immigration officers are required to look at many factors, including:
  • Age
  • Family Status
  • Health
  • Financial Status
PUBLIC CHARGE:
NOTICE OF PROPOSED RULEMAKING (NPRM)
DRAFT Notice of Proposed Rulemaking (NPRM)- leaked to the press in February and March of 2018

Official NPRM- posted to the Federal Register September 22, 2018

Official Proposed Rule- posted to the Federal Register October 10, 2018
CHANGES IN THE PROPOSED RULE

• DEFINITION CHANGE

• NEW NEGATIVE FACTORS

• ADDITIONAL BENEFITS INCLUDED
PROPOSED RULE: Definition Change

Current definition:

○ “An alien who is likely to become primarily dependent on the Government for subsistence.”

Proposed definition:

○ “An alien who is likely at any time to use or receive one or more public benefits.”
Heavily weighted factors

- Proposed rule gives negative weight to children or seniors, persons with limited English proficiency, poor credit history, limited education, or a large family.

New income thresholds

- **Negative** weight to immigrants who earn < 125 percent of the Federal Poverty Level (FPL; $31,375 for a family of four)
- “Heavily positive” weight to immigrants of employable age and/or working with income and assets of at least 250% FPL ($63,000 for a family of four)
**PROPOSED RULE: Benefits considered**

<table>
<thead>
<tr>
<th>Current rule</th>
<th>Proposed rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Temporary Assistance for Needy Families (TANF) (WorkFirst)</td>
<td>• All benefits currently considered, plus</td>
</tr>
<tr>
<td>• Supplemental Security Income (SSI)</td>
<td>• Health programs like non-emergency Medicaid</td>
</tr>
<tr>
<td>• General Assistance or other local cash assistance programs.</td>
<td>• Supplemental Nutrition Assistance program (SNAP) (Basic Food)</td>
</tr>
<tr>
<td>• Long-term institutional care paid by the government (e.g., Medicaid to stay at a nursing home).</td>
<td>• Housing assistance, such as public housing or Section 8 housing vouchers and rental assistance</td>
</tr>
<tr>
<td></td>
<td>• Medicare Part D Low income subsidy</td>
</tr>
</tbody>
</table>
**BENEFITS NOT CONSIDERED**

- Disaster relief
- Emergency medical assistance
- Entirely state, local or tribal programs (other than cash assistance or institutionalization for long-term care)
- Benefits received by immigrant’s family members
- CHIP*
- Women Infants and Children (WIC)
- School Breakfast and Lunch
- Energy Assistance (LIHEAP)
- Transportation vouchers or non cash transportation services
- Non-cash TANF benefits
- Federal Earned Income Tax Credit and Child Tax Credit
- Student Loans

*DHS is asking for input on inclusion of CHIP, but the program is not included in the regulatory text*
PROPOSED RULE: Benefit exemptions

- Certain benefits specifically exempt
  - Retirement, Survivors, and Disability Insurance (RSDI)
  - Veteran’s benefits
  - Unemployment
  - Worker’s comp
  - Medicare
  - In-state tuition and gov’t loans that require repayment
  - Emergency and disaster assistance
PROPOSED RULE: Part C Exemption

Proposed rule exempts:

“Services or benefits funded by Medicaid but provided under the Individuals with Disabilities Education Act (IDEA) 20 U.S.C. 1400 et seq.”

This means:

- Part C/ESIT services are exempt from the current public charge policy AND the proposed rule.
- Even if the proposed rule is finalized, Part C services will not be considered as part of a public charge test.
PUBLIC CHARGE:
PUBLIC COMMENTS, DATA AND RESOURCES
NOTICE AND COMMENT PERIOD:  
PUBLIC COMMENTING

WHAT
• Requirement to open, review and address public comments
• Public comment period is open through December 10, 2018

WHY
• Share how your organization and the families you serve may be impacted

WHO
• Anyone!

HOW
• Go to: www.regulations.gov
• Enter 1615-AA22 in the search bar.
MEASURING THE IMPACT

- How are the proposed immigration policies impacting the families you serve?
- Are you getting more questions from families about how immigration policies may interact with ESIT services or other types of services?
- Have you seen a shift or increase in declination of services from families?
- Have you seen more hesitation among families in signing certain forms to enroll in ESIT?
This is a *proposed* rule. The policy on public charge decisions made within the U.S. has not yet changed.

Not all immigrants are subject to the public charge test.

Part C/ESIT services are exempt from a public charge test.

Each situation is different- families should consult with an immigration attorney about their situation.
- Provider resource document & Infographic
- Family resource document
- Governor Inslee’s Immigration and Refugee Resource page
- City of Seattle Office of Immigrant and Refugee Affairs Resource page
- Northwest Immigrant Rights Project (206-587-4009)
- Immigration Advocates’ resources
If you have any questions, please contact Sue Rose with the Early Support for Infants and Toddlers Program.

sue.rose@dcyf.wa.gov